AMENDMENT OF SOLICITATION/MODIFICATION OF C			CONTRACT	1. Contr.	1. CONTRACT ID CODE		Page of Pages	
7							1	
2. AMENDMEN MODIFICATION	T/MODIFICATION NO.	3. EFFECTIVE DATE SEE BLOCK 16C	4. REQUISITION/PURCHA	SE REQ. No.	į	5. PROJECT NO	. (IF APPLICABLE)	
6. Issued By	Code		7. ADMINISTERED BY	(If other than	Item 6)	Code		
						_		
8. Name and Ac	ddress of Contractor (No., street, county, State and	ZIP Code	l	(x) 9	A. AMEND	MENT OF SOLICI	TATION NO.	
				9	B. DATED	(SEE ITEM 11)		
							NTRACT/ORDER NO.	
CODE		FACILITY CODE		<u> </u>	0B. Date	D (SEE ITEM 13))	
OODL	11. THIS ITEM		AMENDMENTS OF SC	LICITATIO	NS			
	The above numbered solicitation is amended as					s extended	X is not extended.	
Offer's must ack	Offers nowledge receipt of this amendment prior to the ho	ur and date specified in the	he solicitation or as amended, b] v one of the fo	ollowing m	ethods:		
separate letter of DESIGNATED F desire to change is received prior	g Items 8 and 15, and returningcopies of r telegram which includes a reference to the solicite COR THE RECEIPT OF OFFERS PRIOR TO THE He and offer already submitted, such change may be not to the opening hour and date specified. NG AND APPROPRIATION DATA (If required)	ation and amendment nur HOUR AND DATE SPEC	mbers. FAILURE OF YOUR AC IFIED MAY RESULT IN REJEC	KNOWLEDGE TION OF YOU	EMENT TO JR OFFEI	O BE RECEIVER. If by virtue of	ED AT THE PLACE of this amendment you	
	13. THIS ITEM APPL	IES ONLY TO MO	DIFICATIONS OF CONT	TRACTS/O	RDERS	3 .		
	IT MODIFIES TH	E CONTRACT/ORI	DER NO. AS DESCRIBE	ED IN ITEM	14.			
	A. THIS CHANGE ORDER IS ISSUED PURSU IN ITEM 10A.	ANT TO: (Specify author	ority) THE CHANGES SET FOR	TH IN ITEM 1	4 ARE M	ADE IN THE C	CONTRACT ORDER NO.	
	B. THE ABOVE NUMBERED CONTRACT/ORI date, etc.) SET FORTH IN ITEM 14, PURSI			E CHANGES	(such as	changes in pay	ring office, appropriation	
Х	C. THIS SUPPLEMENTAL AGREEMENT IS EN	NTERED INTO PURSUA	NT TO AUTHORITY OF :	FAR 52.21	2-4(c)			
	D. OTHER (Specify type of modification and au	thority)						
	ANT: Contractor is no		to sign this document ar				suing office.	
14. DESCRIPTI	ON OF AMENDMENT/MODIFICATION (Organized	by UCF section neading	s, including solicitation/contract	subject matte	r wnere re	easible.)		
See Attache	ed							
Except as provid	led herein, all terms and conditions of the documen	t referenced in item 9A o	r 10A as heretofore changed r	emains uncha	nged and	in full force and	d effect	
	D TITLE OF SIGNER (Type or print)	t rotoronood iir nom o, t o	16A. NAME AND TITLE OF					
15B. CONTRAC	CTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF A	MERICA			16C. DATE SIGNED	
			BY					
(Sig	nature of person authorized to sign)		(Signature of	Contracting C	Officer)			

NSN 7540-01-152-8070 PREVIOUS EDITION UNUSABLE (Note: This is an FSS reproduction using word processing software $% \left(1\right) =\left(1\right) \left(1\right) \left$ 30-105

STANDARD FORM 30 (REV. 10-83) Prescribed by GSA, FAR (48 CFR) 53.243

Important notice: This modification will cover two refreshes as follows: MAS 81 I B Solicitation Refresh #4 dated June 8, 2007 and Refresh #5 dated June 10, 2008. The below are blank (generic) MAS 81 I B clauses without the fill-ins, if applicable, specific to the MAS 81 I B. For review of those filled in MAS 81 I B specific clauses, please review a copy of the entire current MAS 81 I B Solicitation – 2FYB-DJ-050008-B, refreshed on June 10, 2008 at http://www.fbo.gov. Please note that the terms and conditions of both MAS 81 I B Solicitation Refreshes #4 and #5 will be incorporated into your existing contract. Signing the SF30 for this Modification will acknowledge this statement.

Refresh #4

Added Clauses

552,238-76 DEFINITION (FEDERAL SUPPLY SCHEDULES)—RECOVERY PURCHASING (FEB 2007)

Ordering activity (also called ``ordering agency" and ``ordering office") means an eligible ordering activity (see 552.238-78, Alternate I) authorized to place orders under Federal Supply Schedule contracts.

552.238-78 SCOPE OF CONTRACT (ELIGIBLE ORDERING ACTIVITIES) (MAY 2004) (ALTERNATE I -- FEB 2007)

- (a) This solicitation is issued to establish contracts which may be used on a nonmandatory basis by the agencies and activities named below, as a source of supply for the supplies or services described herein, for domestic delivery.
- (1) Executive agencies (as defined in Federal Acquisition Regulation Subpart 2.1) including nonappropriated fund activities as prescribed in 41 CFR 101-26.000;
- (2) Government contractors authorized in writing by a Federal agency pursuant to Federal Acquisition Regulation Subpart 51.1:
- (3) Mixed ownership Government corporations (as defined in the Government Corporation Control Act);
- (4) Federal Agencies, including establishments in the legislative or judicial branch of government (except the Senate, the House of Representatives and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol);
- (5) The District of Columbia;
- (6) Tribal governments when authorized under 25 U.S.C. 450j(k);
- (7) Qualified Nonprofit Agencies as authorized under 40 U.S.C. 502(b); and
- (8) Organizations, other than those identified in paragraph (d) of this clause, authorized by GSA pursuant to statute or regulation to use GSA as a source of supply.
- (b) Definitions—

Domestic delivery is delivery within the 48 contiguous states, Alaska, Hawaii, Puerto Rico, Washington, DC, and U.S. territories. Domestic delivery also includes a port or consolidation point, within the aforementioned areas, for orders received from overseas activities.

Overseas delivery is delivery to points outside of the 48 contiguous states, Washington, DC, Alaska, Hawaii, Puerto Rico, and U.S. territories.

- (c) Offerors are requested to check one of the following boxes:

 Contractor will provide domestic and overseas delivery.

 Contractor will provide overseas delivery only.

 Contractor will provide domestic delivery only.
- (d) The following activities may place orders against Federal Supply Schedules for products and services determined by the Secretary of Homeland Security to facilitate recovery from major disasters, terrorism, or nuclear, biological, chemical, or radiological attack, on an optional basis; PROVIDED, the Contractor accepts order(s) from such activities: State and local government entities, includes any state, local, regional or tribal government or any instrumentality thereof (including any local educational agency or institution of higher learning).

State and local government entities, means the states of the United States, counties, municipalities, cities, towns, townships, tribal governments, public authorities (including public or Indian housing agencies under the United States Housing Act of 1937), school districts, colleges and other institutions of higher education, council of governments (incorporated or not), regional or interstate government entities, or any agency or instrumentality of the preceding entities (including any local educational agency or institution of higher education), and including legislative and judicial departments. The term does not include contractors of, or grantees of, State or local governments.

- (1) Local educational agency has the meaning given that term in section 8013 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713).
- (2) *Institution of higher education* has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).
- (3) Tribal government means--

- (i) The governing body of any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and (ii) Any Alaska Native regional or village corporation established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).
- (e) Articles or services may be ordered from time to time in such quantities as may be needed to fill any requirement, subject to the Order Limitations thresholds which will be specified in resultant contracts. Overseas activities may place orders directly with schedule contractors for delivery to CONUS port or consolidation point.
- (f) (1) The Contractor is obligated to accept orders received from activities within the Executive Branch of the Federal Government.
- (2) The Contractor is not obligated to accept orders received from activities outside the Executive Branch; however, the Contractor is encouraged to accept such orders. If the Contractor elects to accept such orders, all provisions of the contract shall apply, including clause 552.232-79, Payments by Credit Card. If the Contractor is unwilling to accept such orders, and the proposed method of payment is not through the Credit Card, the Contractor shall return the order by mail or other means of delivery within 5 workdays from receipt. If the Contractor is unwilling to accept such orders, and the proposed method of payment is through the Credit Card, the Contractor must so advise the ordering activity within 24 hours of receipt of order. (Reference clause 552.232-79, Payment by Credit Card.) Failure to return an order or advise the ordering activity within the time frames of this paragraph shall constitute acceptance whereupon all provisions of the contract shall apply.
- (g) The Government is obligated to purchase under each resultant contract a guaranteed minimum of \$2,500 (two thousand, five hundred dollars) during the contract term.

552,238-80 USE OF FEDERAL SUPPLY SCHEDULE CONTRACTS BY CERTAIN ENTITIES--RECOVERY PURCHASING (FEB 2007)

- (a) If an entity identified in paragraph (d) of the clause at 552.238-78, Scope of Contract (Eligible Ordering Activities)-- Alternate I, elects to place an order under this contract, the entity agrees that the order shall be subject to the following conditions:
- (1) When the Contractor accepts an order from such an entity, a separate contract is formed which incorporates by reference all the terms and conditions of the Schedule contract except the Disputes clause, the patent indemnity clause, and the portion of the Commercial Item Contract Terms and Conditions that specifies ``Compliance with laws unique to Government contracts" (which applies only to contracts with entities of the Executive branch of the U.S. Government). The parties to this new contract which incorporates the terms and conditions of the Schedule contract are the individual ordering activity and the Contractor. The U.S. Government shall not be liable for the performance or nonperformance of the new contract. Disputes which cannot be resolved by the parties to the new contract may be litigated in any State or Federal court with jurisdiction over the parties, applying Federal procurement law, including statutes, regulations and case law, and, if pertinent, the Uniform Commercial Code. To the extent authorized by law, parties to this new contract are encouraged to resolve disputes through Alternative Dispute Resolution. Likewise, a Blanket Purchase Agreement (BPA), although not a contract, is an agreement that may be entered into by the Contractor with such an entity and the Federal Government is not a party.
- (2) Where contract clauses refer to action by a Contracting Officer or a Contracting Officer of GSA, that shall mean the individual responsible for placing the order for the ordering activity (e.g., Federal Acquisition Regulation 52.212-4 at paragraph (f) and FSS clause I-FSS-249 B).
- (3) As a condition of using this contract, eligible ordering activities agree to abide by all terms and conditions of the Schedule contract, except for those deleted clauses or portions of clauses mentioned in paragraph (a)(1) of this clause. Ordering activities may include terms and conditions required by statute, ordinance, regulation, order, or as otherwise allowed by State and local government entities as a part of a statement of work (SOW) or statement of objective (SOO) to the extent that these terms and conditions do not conflict with the terms and conditions of the Schedule contract. The ordering activity and the Contractor expressly acknowledge that, in entering into an agreement for the ordering activity to purchase goods or services from the Contractor, neither the ordering activity nor the Contractor will look to, primarily or in any secondary capacity, or file any claim against the United States or any of its agencies with respect to any failure of performance by the other party.
- (4) The ordering activity is responsible for all payments due the Contractor under the contract formed by acceptance of the ordering activity's order, without recourse to the agency of the U.S. Government, which awarded the Schedule contract.
- (5) The Contractor is encouraged, but not obligated, to accept orders from such entities. The Contractor may, within 5 days of receipt of the order, decline to accept any order, for any reason. The Contractor shall fulfill orders placed by such entities, which are not declined within the 5-day period.
- (6) The supplies or services purchased will be used for governmental purposes only and will not be resold for personal use. Disposal of property acquired will be in accordance with the established procedures of the ordering activity for the disposal of personal property.
- (7) The state or local government ordering activity will be responsible for purchasing products or services to be used to facilitate recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and

Emergency Assistance Act (42 U.S.C. 5121 et seq.) or to facilitate recovery from terrorism or nuclear, biological, chemical, or radiological attack.

- (b) If the Schedule Contractor accepts an order from an entity identified in paragraph (d) of the clause at 552.238-78, Scope of Contract (Eligible Ordering Activities)--Alternate I, the Contractor agrees to the following conditions--
- (1) The ordering activity is responsible for all payments due the Contractor for the contract formed by acceptance of the order, without recourse to the agency of the U.S. Government, which awarded the Schedule contract.
- (2) The Contractor is encouraged, but not obligated, to accept orders from such entities. The Contractor may, within 5 days of receipt of the order, decline to accept any order, for any reason. The Contractor shall decline the order using the same means as those used to place the order. The Contractor shall fulfill orders placed by such entities, which are not declined within the 5-day period.
- (c) In accordance with clause 552.238-74, Industrial Funding Fee and Sales Reporting, the Contractor must report the quarterly dollar value of all sales under this contract. When submitting sales reports, the Contractor must report two dollar values for each Special Item Number--
- (1) The dollar value for sales to entities identified in paragraph (a) of the clause at 552.238-78, Scope of Contract (Eligible Ordering Activities)--Alternate I; and
- (2) The dollar value for sales to entities identified in paragraph (d) of clause 552.238-78, Alternate I.
- (d) A listing of the Federal Supply Schedule contracts for the products and services available for disaster recovery purchasing is accessible in GSA's Schedules e-Library at Web site http://www.gsaelibrary.gsa.gov. Click on the link, ``Disaster Recovery Purchasing, State and Local.". The participating Contractors and the products and services available for disaster recovery purchasing will be labeled with the Disaster Recovery Purchasing icon.

52.247-45 F.O.B. ORIGIN AND/OR F.O.B. DESTINATION EVALUATION (APR 1984)

Offers are invited on the basis of both f.o.b. origin and f.o.b. destination, and the Government will award on the basis the Contracting Officer determines to be most advantageous to the Government. An offer on the basis of f.o.b. origin only or f.o.b. destination only is acceptable, but will be evaluated only on the basis submitted.

52.247-32 F.O.B. ORIGIN, FREIGHT PREPAID (FEB 2006)

- (a) The term "f.o.b. origin, freight prepaid," as used in this clause, means—
- (1) Free of expense to the Government delivered—
- (i) On board the indicated type of conveyance of the carrier (or of the Government, if specified) at a designated point in the city, county, and State from which the shipments will be made and from which line-haul transportation service (as distinguished from switching, local drayage, or other terminal service) will begin;
- (ii) To, and placed on, the carrier's wharf (at ship-side, within reach of the ship's loading tackle, when the shipping point is within a port area having water transportation service) or the carrier's freight station;
- (iii) To a U.S. Postal Service facility; or
- (iv) If stated in the solicitation, to any Government-designated point located within the same city or commercial zone as the f.o.b. origin point specified in the contract (the Federal Motor Carrier Safety Administration prescribes commercial zones at Subpart B of 49 CFR part 372); and
- (2) The cost of transportation, ultimately the Government's obligation, is prepaid by the Contractor to the point specified in the contract.
- (b) The Contractor shall—
- (1) (i) Pack and mark the shipment to comply with contract specifications; or
- (ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements to protect the goods and to ensure assessment of the lowest applicable transportation charge;
- (2) (i) Order specified carrier equipment when requested by the Government; or
- (ii) If not specified, order appropriate carrier equipment not in excess of capacity to accommodate shipment;
- (3) Deliver the shipment in good order and condition to the carrier, and load, stow, trim, block, and/or brace carload or truckload shipment (when loaded by the Contractor) on or in the carrier's conveyance as required by carrier rules and regulations;
- (4) Be responsible for any loss of and/or damage to the goods—
- (i) Occurring before delivery to the carrier;
- (ii) Resulting from improper packing or marking; or
- (iii) Resulting from improper loading, stowing, trimming, blocking, and/or bracing of the shipment, if loaded by the Contractor on or in the carrier's conveyance;
- (5) Prepare a bill of lading or other transportation receipt. The bill of lading shall show—
- (i) A description of the shipment in terms of the governing freight classification or tariff (or Government rate tender) under which lowest freight rates are applicable;
- (ii) The seals affixed to the conveyance with their serial numbers or other identification;
- (iii) Lengths and capacities of cars or trucks ordered and furnished;

- (iv) Other pertinent information required to effect prompt delivery to the consignee, including name, delivery address, postal address and ZIP code of consignee, routing, etc.;
- (v) Special instructions or annotations requested by the ordering agency for bills of lading; e.g., "This shipment is the property of, and the freight charges paid to the carrier(s) will be reimbursed by, the Government"; and
- (vi) The signature of the carrier's agent and the date the shipment is received by the carrier;
- (6) Distribute the copies of the bill of lading, or other transportation receipts, as directed by the ordering agency; and
- (7) Prepay all freight charges to the extent specified in the contract.
- (c) These Contractor responsibilities are specified for performance at the plant or plants at which these supplies are to be finally inspected and accepted, unless the facilities for shipment by carrier's equipment are not available at the Contractor's plant, in which case the responsibilities shall be performed f.o.b. the point or points in the same or nearest city where the specified carrier's facilities are available; subject, however, to the following qualifications:
- (1) If the Contractor's shipping plant is located in the State of Alaska or Hawaii, the Contractor shall deliver the supplies listed for shipment outside Alaska or Hawaii to the port of loading in Alaska or Hawaii, respectively, as specified in the contract, at Contractor's expense, and to that extent the contract shall be "f.o.b. destination."
- (2) Notwithstanding subparagraph (c)(1) of this clause, if the Contractor's shipping plant is located in the State of Hawaii, and the contract requires delivery to be made by container service, the Contractor shall deliver the supplies, at the Contractor's expense to the container yard in the same or nearest city where seavan container service is available.

52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es): For contract provisions which are contained in the Federal Acquisition Regulation (FAR) the address is http://acquisition.gov/far.

Number Title Clause/Provision

52.214-34 SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE (APR 1991) Provision

52.214-35 SUBMISSION OF OFFERS IN U.S. CURRENCY (APR 1991) Provision

52.216-31 TIME-AND-MATERIALS/LABOR-HOUR PROPOSAL REQUIREMENTS--COMMERCIAL ITEM ACQUISITION (FEB 2007) Provision

52.222-24 PREAWARD ON-SITE EQUAL OPPORTUNITY COMPLIANCE REVIEW (FEB 1999) Provision

52.247-45 F.O.B. ORIGIN AND/OR F.O.B. DESTINATION EVALUATION (APR 1984) Provision

552.219-72 PREPARATION, SUBMISSION, AND NEGOTIATION OF SUBCONTRACTING PLANS (JUN 2005) Provision

552.219-73 GOALS FOR SUBCONTRACTING PLAN (JUN 2005) (ALTERNATE I - JUN 2005) Provision

552.233-70 PROTESTS FILED DIRECTLY WITH THE GENERAL SERVICES ADMINISTRATION (MAR 2000) Provision

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es): For contract clauses which are contained in the Federal Acquisition Regulation (FAR) the address is http://acquisition.gov/far/.

Number Title Clause/Provision

52.202-1 DEFINITIONS (JUL 2004) Clause

52.203-3 GRATUITIES (APR 1984) Clause

52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000) Clause

52.204-7 CENTRAL CONTRACTOR REGISTRATION (JUL 2006) Clause

52.211-16 VARIATION IN QUANTITY (APR 1984) Clause

52.215-21 REQUIREMENTS FOR COST OR PRÍCING DATA OR INFORMATION OTHER THAN COST OR PRICING

DATA--MODIFICATIONS (OCT 1997) (ALTERNATE IV - OCT 1997) Clause

52.216-18 ORDERING (OCT 1995) (DEVIATION II - FEB 2007) Clause

52.216-19 ORDER LIMITATIONS (OCT 1995) Clause

52.216-22 INDEFINITE QUANTITY (OCT 1995) (DEVIATION I - JAN 1994) Clause

52.217-8 OPTION TO EXTEND SERVICES Clause

52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997) Clause

52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (AUG 2003) Clause

52.228-5 INSURANCE--WORK ON A GOVERNMENT INSTALLATION (JAN 1997) Clause

52.229-1 STATE AND LOCAL TAXES (APR 1984) Clause

52.232-37 MULTIPLE PAYMENT ARRANGEMENTS (MAY 1999) Clause

52.232-7 PAYMENTS UNDER TIME-AND-MATERIALS AND LABOR-HOUR CONTRACTS (FEB 2007) Clause

52.233-1 DISPUTES (JUL 2002) Clause

52.242-13 BANKRUPTCY (JUL 1995) Clause

52.247-32 F.O.B. ORIGIN, FREIGHT PREPAID (FEB 2006) Clause
52.247-34 F.O.B. DESTINATION (NOV 1991) Clause
52.247-38 F.O.B. INLAND CARRIER, POINT OF EXPORTATION (FEB 2006) Clause
52.247-39 F.O.B. INLAND POINT, COUNTRY OF IMPORTATION (APR 1984) Clause
552.211-82 NOTICE OF SHIPMENT (FEB 1996) Clause
552.212-70 PREPARATION OF OFFER (MULTIPLE AWARD SCHEDULE) (AUG 1997) Clause
552.229-71 FEDERAL EXCISE TAX--DC GOVERNMENT (SEP 1999) Clause
552.232-74 INVOICE PAYMENTS (SEP 1999) Clause
552.232-77 PAYMENT BY GOVERNMENTWIDE COMMERCIAL PURCHASE CARD (MAR 2000) (ALTERNATE I - MAR 2000) Clause
552.232-79 PAYMENT BY CREDIT CARD (MAY 2003) Clause
552.232-8 DISCOUNTS FOR PROMPT PAYMENT (APR 1989) (DEVIATION FAR 52.232-8) Clause
552.232-83 CONTRACTOR'S BILLING RESPONSIBILITIES (MAY 2003) Clause
552.238-73 CANCELLATION (SEP 1999) Clause

Updated

52.212-4 CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS (FEB 2007)

- (a) Inspection/Acceptance. The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its postacceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.
- (b) Assignment. The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.
- (c) Changes. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.
- (d) *Disputes*. This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.
- (e) Definitions. The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.
- (f) Excusable delays. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

 (g) Invoice.
- (1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include—
- (i) Name and address of the Contractor;
- (ii) Invoice date and number;
- (iii) Contract number, contract line item number and, if applicable, the order number;
- (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (vi) Terms of any discount for prompt payment offered;
- (vii) Name and address of official to whom payment is to be sent;
- (viii) Name, title, and phone number of person to notify in event of defective invoice; and
- (ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
- (x) Electronic funds transfer (EFT) banking information.(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking

- information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer—Other Than Central Contractor Registration), or applicable agency procedures.(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.
- (2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.
- (h) *Patent indemnity*. The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.
- (i) Payment.
- (1) Items accepted. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.
- (2) Prompt payment. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.
- (3) Electronic Funds Transfer (EFT). If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.
- (4) Discount. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.
- (5) Overpayments. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.
- (j) Risk of loss. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:
- (1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
- (2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.
- (k) Taxes. The contract price includes all applicable Federal, State, and local taxes and duties.
- (l) Termination for the Government's convenience. The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.
- (m) *Termination for cause*. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.
- (n) *Title*. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.
- (o) Warranty. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.
- (p) *Limitation of liability*. Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.
- (q) *Other compliances*. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.
- (r) Compliance with laws unique to Government contracts. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 3701, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.
- (s) Order of precedence. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order: (1) the schedule of supplies/services; (2) the Assignments, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts paragraphs of this clause; (3) the clause at 52.212-5; (4) addenda to this solicitation or contract, including any license agreements for computer software; (5)

solicitation provisions if this is a solicitation; (6) other paragraphs of this clause; (7) the Standard Form 1449; (8) other documents, exhibits, and attachments; and (9) the specification.

- (t) Central Contractor Registration (CCR).
- (1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.
- (2) (i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of subpart 42.12; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name. (ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.
- (3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.
- (4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at http://www.ccr.gov or by calling 1-888-227-2423 or 269-961-5757.

52,212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (MAR 2007)

- (a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:
- (1) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).
- (2) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).
- (b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

Number Title Clause/Provision

- 52.219-8 Utilization of Small Business Concerns (May 2004) Clause
- 52.222-19 Child Labor--Cooperation with Authorities and Remedies (Jan 2006) Clause
- 52.222-21 Prohibition of Segregated Facilities (Feb 1999) Clause
- 52.222-26 Equal Opportunity (Mar 2007) Clause
- 52.222-3 Convict Labor (Jun 2003) Clause
- 52.222-35 Equal Opportunity For Special Disabled Veterans, Veterans Of The Vietnam Era, And Other Eligible Veterans (Sep 2006) Clause
- 52.222-36 Affirmative Action for Workers with Disabilities (Jun 1998) Clause
- 52.222-37 Employment Reports On Special Disabled Veterans, Veterans of The Vietnam Era, And Other Eligible Veterans (Sep 2006) Clause
- 52.222-39 Notification of Employee Rights Concerning Payment of Union Dues Or Fees (Dec 2004) Clause
- 52.225-13 Restrictions on Certain Foreign Purchases (Feb 2006) Clause
- 52.225-5 Trade Agreements (Nov 2006) Clause 52.232-33 Payment By Electronic Funds Transfer Central Contractor Registration (Oct 2003) Clause
- 52.232-34 Payment By Electronic Funds Transfer--Other Than Central Contractor Registration (May 1999) Clause
- 52.223-9 Estimate Of Percentage Of Recovered Material Content For Epa-Designated Products (Aug 2000) Clause

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

Number Title Clause/Provision

52.222-42 Statement of Equivalent Rates for Federal Hires (May 1989) Clause

52.222-43 Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Multiple Year and Option Contracts) (Nov 2006) Clause

- (d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records--Negotiation.
- (1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.
- (2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved. (3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law
- (e) (1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in paragraphs (i) through (vi) of this paragraph in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause--
- (i) 52.219-8, Utilization of Small Business Concerns (MAY 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$550,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.
- (ii) 52.222-26, Equal Opportunity (MAR 2007) (E.O. 11246).
- (iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEP 2006) (38 U.S.C. 4212).
- (iv) 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793).
- (v) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004) (E.O. 13201). (vi) 52.222-41, Service Contract Act of 1965, as Amended (JUL 2005), flow down required for all subcontracts subject to the Service Contract Act of 1965 (41 U.S.C. 351, et seq.).
- (vii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.
- (2) While not required, the contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

52.225-5 TRADE AGREEMENTS (NOV 2006)

- (a) Definitions. As used in this clause.
 - Designated country means any of the following countries:
 - (1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or United Kingdom);
 - (2) A Free Trade Agreement country (Australia, Bahrain, Canada, Chile, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Morocco, Nicaragua, or Singapore);
 - (3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

- (4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, or Trinidad and Tobago).

 Designated country end product means a WTO GPA country end product, an FTA country end product, a least developed country end product, or a Caribbean Basin country end product.
- (1) Means an article that—
 - (i) (A) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or
 - (B) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed; and
 - (g) Is not excluded from duty-free treatment for Caribbean countries under 19 U.S.C. 2703(b).
- (A) For this reason, the following articles are not Caribbean Basin country end products: Tuna, prepared or preserved in any manner in airtight containers; Petroleum, or any product derived from petroleum; Watches and watch parts (including cases, bracelets, and straps) of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the Harmonized Tariff Schedule of the United States (HTSUS) column 2 rates of duty apply (i.e., Afghanistan, Cuba, Laos, North Korea, and Vietnam); and

Certain of the following: textiles and apparel articles; footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel; or handloomed, handmade, and folklore articles;

(B) Access to the HTSUS to determine duty-free status of articles of these types is available at http://www.usitc.gov/tata/hts/. In particular, see the following:

General Note 3(c), Products Eligible for Special Tariff treatment.

General Note 17, Products of Countries Designated as Beneficiary Countries under the United States—Caribbean Basin Trade Partnership Act of 2000.

Section XXII, Chapter 98, Subchapter II, Articles Exported and Returned, Advanced or Improved Abroad, U.S. Note 7(b).

Section XXII, Chapter 98, Subchapter XX, Goods Eligible for Special Tariff Benefits under the United States—Caribbean Basin Trade Partnership Act; and

(2) Refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the acquisition, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

Designated country end product means an article that—

- (1) Is wholly the growth, product, or manufacture of a designated country; or
- (2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services, (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

Free Trade Agreement country end product means an article that—

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or
(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an FTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

Least developed country end product means an article that—

- (1) Is wholly the growth, product, or manufacture of a least developed country; or
- (2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

WTO GPA country end product means an article that-

- (1) Is wholly the growth, product, or manufacture of a WTO GPA country; or
- (2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered

for purchase under a supply contract, but for purposes of calculating the value of the end product includes services, (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

End product means those articles, materials, and supplies to be acquired under the contract for public use. United States means the 50 States, the District of Columbia, and outlying areas.

- U.S.-made end product means an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.
- (b) Delivery of end products. The Contracting Officer has determined that the WTO GPA and FTAs apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only U.S.-made or designated country end products except to the extent that, in its offer, it specified delivery of other end products in the provision entitled "Trade Agreements Certificate."
- (c) United States law will apply to resolve any claim of breach of this contract.

52.233-2 SERVICE OF PROTEST (SEP 2006)

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

General Services Administration Office Products Acquisition Branch (2QSAB) 26 Federal Plaza, Room 19-128 New York, New York 10278

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

552.216-70 ECONOMIC PRICE ADJUSTMENT—FSS MULTIPLE AWARD SCHEDULE CONTRACTS (SEP 1999) (TAILORED I –DEC 2006)

Price adjustments include price increases and price decreases. Adjustments will be considered as follows:

- (a) Contractors shall submit price decreases anytime during the contract period in which they occur. Price decreases will be handled in accordance with the provisions of the Price Reduction Clause.
- (b) Contractors may request price increases under the following conditions:
- (1) Increases resulting from a reissue or other modification of the Contractor's commercial catalog/pricelist that was used as the basis for the contract award.
- (2) Only four (4) increases will be considered during each calendar year of the contract period (not to exceed 10%).
- (3) Increases are requested after the first 30 days of the contract period and prior to the last 60 days of the contract period.
- (4) At least 30 days elapse between requested increases.

Note: See Exhibit 3 when requesting to increase or decrease prices from an existing contract. This request must be by letter on letterhead from the contractor stating the type of action that they are requesting. Request for price increases must be submitted 30 days prior to their effective date of the increase.

- (c) The aggregate of the increases in any contract unit price under this clause shall not exceed 10% percent of the original contract unit price. The Government reserves the right to raise this ceiling where changes in market conditions during the contract period support an increase.
- (d) The following material shall be submitted with the request for a price increase:
- (1) A copy of the commercial catalog/pricelist showing the price increase and the effective date for commercial customers.
- (2) Commercial Sales Practice format regarding the Contractor's commercial pricing practice relating to the reissued or modified catalog/pricelist, or a certification that no change has occurred in the data since completion of the initial negotiation or a subsequent submission.
- (3) Documentation supporting the reasonableness of the price increase.
- (e) The Government reserves the right to exercise one of the following options:
- (1) Accept the Contractor's price increases as requested when all conditions of (b), (c), and (d) of this clause are satisfied;
- (2) Negotiate more favorable discounts from the new commercial prices when the total increase requested is not supported; or,

- (3) Remove the product(s) from contract involved pursuant to the Cancellation Clause of this contract, when the increase requested is not supported.
- (f) The contract modification reflecting the price adjustment shall be signed by the Government and made effective upon receipt of notification from the Contractor that the new catalog/pricelist has been mailed to the addressees previously furnished by the Contracting Officer, provided that in no event shall such price adjustment be effective prior to the effective date of the commercial price increases. The increased contract prices shall apply to delivery orders issued to the Contractor on or after the effective date of the contract modification.

I-FSS-599 ELECTRONIC COMMERCE—FACNET (SEP 2006)

(a) General Background.

The Federal Acquisition Streamlining Act (FASA) of 1994 establishes the Federal Acquisition Computer Network (FACNET) requiring the Government to evolve its acquisition process from one driven by paperwork into an expedited process based on electronic commerce/electronic data interchange (EC/EDI). EC/EDI means more than merely automating manual processes and eliminating paper transactions. It can and will help to move business processes (e.g., procurement, finance, logistics, etc.) into a fully electronic environment and fundamentally change the way organizations operate.

(b) Trading Partners and Value-Added Networks (VAN's).

Within the FACNET architecture, electronic documents (e.g., orders, invoices, etc.) are carried between the Federal Government's procuring office and contractors (now known as "trading partners"). These transactions are carried by commercial telecommunications companies called Value-Added Networks (VAN's). EDI can be done using commercially available hardware, software, and telecommunications. The selection of a VAN is a business decision contractors must make. There are many different VAN's which provide a variety of electronic services and different pricing strategies. If your VAN only provides communications services, you may also need a software translation package.

(c) Registration Instructions.

DOD will require Contractors to register as trading partners to do business with the Government. This policy can be reviewed via the INTERNET at http://www.defenselink.mil/releases/1999/b03011999 bt079-99.html. To do EDI with the Government, Contractors must register as a trading partner. Contractors will provide regular business information, banking information, and EDI capabilities to all agencies in this single registration. A central repository of all trading partners, called the Central Contractor Registration (CCR) http://www.ccr.gov/, has been developed. All Government procuring offices and other interested parties will have access to this central repository. The database is structured to identify the types of data elements which are public information and those which are confidential and not releasable. To register, contractors must provide their Dun and Bradstreet (DUNS) number. The DUNS number is available by calling 1(800)333-0505. It is provided and maintained free of charge and only takes a few minutes to obtain. Contractors will need to provide their Tax Identification Number (TIN). The TIN is assigned by the Internal Revenue Service by calling 1(800)829-1040. Contractors will also be required to provide information about company bank or financial institution for electronic funds transfer (EFT). Contractors may register through on-line at http://www.ccr.gov/or through their Value Added Network (VAN) using an American National Standards Institute (ANSI) ASC X12 838 transaction set, called a "Trading Partner Profile." A transaction set is a standard format for moving electronic data. VAN's will be able to assist contractors with registration.

- (d) Implementation Conventions. All EDI transactions must comply with the Federal Implementation Conventions (IC's). Many VAN's and software providers have already built the IC requirements into their products. If you need to see the IC's, they are available on a registry maintained by the National Institute of Standards and Technology (NIST). It is accessible via the INTERNET at http://www.itl.nist.gov/lab/csl-pubs.htm. IC's are available for common business documents such as Purchase Order, Price Sales Catalog, Invoice, Request for Quotes, etc.
- (e) Additional Information. GSA has additional information available for vendors who are interested in starting to use EC/EDI. Contact the Contracting Officer for a copy of the latest handbook. Several resources are available to vendors to assist in implementing EC/EDI; specific addresses are available in the handbook or from the Contracting Officer:
- (1) Electronic Commerce Resource Centers (ECRC's) are a network of U.S. Government-sponsored centers that provide EC/EDI training and support to the contractor community. They are found in over a dozen locations around the country.
- (2) Procurement Technical Assistance Centers (PTAC's) and Small Business Development Centers (SBDC's) provide management assistance to small business owners. Each state has several locations.
- (3) Most major US cities have an EDI user group of companies who meet periodically to share information on EDIrelated subjects.
- (f) GSA Advantage!TM.
- (1) GSA Advantage!TM will use this FACNET system to receive catalogs, invoices and text messages; and to send purchase orders, application advice, and functional acknowledgments. GSA Advantage!TM enables customers to: (i) Perform database searches across all contracts by manufacturer; manufacturer's model/part number; vendor; and
- generic product categories.

- (ii) Generate their own EDI delivery orders to contractors, generate EDI delivery orders from the Federal Supply Service to contractors, or download files to create their own delivery orders.
- (iii) Use the Federal IMPAC VISA.
- (2) GSA Advantage!TM may be accessed via the GSA Home Page. The INTERNET address is: http://www.gsa.gov

52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2006)

- (a) Definitions. As used in this clause— All employment openings means all positions except executive and top management, those positions that will be filled from within the Contractor's organization, and positions lasting 3 days or less. This term includes full-time employment, temporary employment of more than 3 days duration, and part-time employment. Executive and top management means any employee—
- (1) Whose primary duty consists of the management of the enterprise in which the individual is employed or of a customarily recognized department or subdivision thereof;
- (2) Who customarily and regularly directs the work of two or more other employees;
- (3) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight;
- (4) Who customarily and regularly exercises discretionary powers; and
- (5) Who does not devote more than 20 percent or, in the case of an employee of a retail or service establishment, who does not devote more than 40 percent of total hours of work in the work week to activities that are not directly and closely related to the performance of the work described in paragraphs (1) through (4) of this definition. This paragraph (5) does not apply in the case of an employee who is in sole charge of an establishment or a physically separated branch establishment, or who owns at least a 20 percent interest in the enterprise in which the individual is employed. Other eligible veteran means any other veteran who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. Positions that will be filled from within the Contractor's organization means employment openings for which the Contractor will give no consideration to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings the Contractor proposes to fill from regularly established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of its organization. Qualified special disabled veteran means a special disabled veteran who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such veteran holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position. Special disabled veteran means—
- (1) A veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability—
- (i) Rated at 30 percent or more; or
- (ii) Rated at 10 or 20 percent in the case of a veteran who has been determined under 38 U.S.C. 3106 to have a serious employment handicap (i.e., a significant impairment of the veteran's ability to prepare for, obtain, or retain employment consistent with the veteran's abilities, aptitudes, and interests); or
- (2) A person who was discharged or released from active duty because of a service-connected disability. Veteran of the Vietnam era means a person who—
- (1) Served on active duty for a period of more than 180 days and was discharged or released from active duty with other than a dishonorable discharge, if any part of such active duty occurred—
- (i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or
- (ii) Between August 5, 1964, and May 7, 1975, in all other cases; or
- (2) Was discharged or released from active duty for a service-connected disability if any part of the active duty was performed—
- (i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or
- (ii) Between August 5, 1964, and May 7, 1975, in all other cases.
- (b) General.
- (1) The Contractor shall not discriminate against the individual because the individual is a special disabled veteran, a veteran of the Vietnam era, or other eligible veteran, regarding any position for which the employee or applicant for employment is qualified. The Contractor shall take affirmative action to employ, advance in employment, and otherwise treat qualified special disabled veterans, veterans of the Vietnam era, and other eligible veterans without discrimination based upon their disability or veterans' status in all employment practices such as—
- (i) Recruitment, advertising, and job application procedures;
- (ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
- (iii) Rate of pay or any other form of compensation and changes in compensation;
- (iv) Job assignment, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- (v) Leaves of absence, sick leave, or any other leave;

- (vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;
- (vii) Selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C. 3687, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- (viii) Activities sponsored by the Contractor including social or recreational programs; and
- (ix) Any other term, condition, or privilege of employment.
- (2) The Contractor shall comply with the rules, regulations, and relevant orders of the Secretary of Labor issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended (38 U.S.C. 4211 and 4212).
- (c) Listing openings.
- (1) The Contractor shall immediately list all employment openings that exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract, and including those occurring at an establishment of the Contractor other than the one where the contract is being performed, but excluding those of independently operated corporate affiliates, at an appropriate local public employment service office of the State wherein the opening occurs. Listing employment openings with the U.S. Department of Labor's America's Job Bank shall satisfy the requirement to list jobs with the local employment service office.
- (2) The Contractor shall make the listing of employment openings with the local employment service office at least concurrently with using any other recruitment source or effort and shall involve the normal obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing of employment openings does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.
- (3) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State public employment agency in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State agency, it need not advise the State agency of subsequent contracts. The Contractor may advise the State agency when it is no longer bound by this contract clause.
- (d) Applicability. This clause does not apply to the listing of employment openings that occur and are filled outside the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands of the United States, and Wake Island.
- (e) Postings.
- (1) The Contractor shall post employment notices in conspicuous places that are available to employees and applicants for employment.
- (2) The employment notices shall—
- (i) State the rights of applicants and employees as well as the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are special disabled veterans, veterans of the Vietnam era, and other eligible veterans; and
- (ii) Be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, Department of Labor (Deputy Assistant Secretary of Labor), and provided by or through the Contracting Officer.
- (3) The Contractor shall ensure that applicants or employees who are special disabled veterans are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled veterans, or may lower the posted notice so that it can be read by a person in a wheelchair).
- (4) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement, or other contract understanding, that the Contractor is bound by the terms of the Act and is committed to take affirmative action to employ, and advance in employment, qualified special disabled veterans, veterans of the Vietnam era, and other eligible veterans.
- (f) Noncompliance. If the Contractor does not comply with the requirements of this clause, the Government may take appropriate actions under the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- (g) Subcontracts. The Contractor shall insert the terms of this clause in all subcontracts or purchase orders of \$100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Deputy Assistant Secretary of Labor to enforce the terms, including action for noncompliance.

52,222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2006)

- (a) Unless the Contractor is a state or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on—
- (1) The number of special disabled veterans, the number of veterans of the Vietnam era, and other eligible veterans in the workforce of the Contractor by job category and hiring location; and
- (2) The total number of new employees hired during the period covered by the report, and of the total, the numbered of special disabled veterans, the number of veterans of the Vietnam era, and the number of other eligible veterans; and

- (3) The maximum number and the minimum number of employees of the Contractor during the period covered by the report.
- (b) The Contractor shall report the above items by completing the Form VETS-100, entitled "Federal Contractor Veterans' Employment Report (VETS-100 Report)."
- (c) The Contractor shall submit VETS-100 Reports no later than September 30 of each year beginning September 30, 1988.
- (d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12-month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. Contractors may select an ending date—As of the end of any pay period between July 1 and August 31 of the year the report is due; or As of December 31, if the Contractor has prior written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).
- (e) The Contractor shall base the count of veterans reported according to paragraph (a) of this clause on voluntary disclosure. Each Contractor subject to the reporting requirements at 38 U.S.C. 4212 shall invite all special disabled veterans, veterans of the Vietnam era, and other eligible veterans who wish to benefit under the affirmative action program at 38 U.S.C. 4212 to identify themselves to the Contractor. The invitation shall state that—
 The information is voluntarily provided;

The information will be kept confidential;

Disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment; and

The information will be used only in accordance with the regulations promulgated under 38 U.S.C. 4212.

(f) The Contractor shall insert the terms of this clause in all subcontracts or purchase orders of \$100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

52,222-43 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT—PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS) (NOV 2006)

- (a) This clause applies to both contracts subject to area prevailing wage determinations and contracts subject to collective bargaining agreements.
- (b) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.
- (c) The wage determination, issued under the Service Contract Act of 1965, as amended, (41 U.S.C. 351, et seq.), by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract. If no such determination has been made applicable to this contract, then the Federal minimum wage as established by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. 206) current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract. (d) The contract price or contract unit price labor rates will be adjusted to reflect the Contractor's actual increase or
- decrease in applicable wages and fringe benefits to the extent that the increase is made to comply with or the decrease is voluntarily made by the Contractor as a result of:

 (1) The Department of Labor wage determination applicable on the anniversary date of the multiple year contract, or at
- (1) The Department of Labor wage determination applicable on the anniversary date of the multiple year contract, or at the beginning of the renewal option period. For example, the prior year wage determination required a minimum wage rate of \$4.00 per hour. The Contractor chose to pay \$4.10. The new wage determination increases the minimum rate to \$4.50 per hour. Even if the Contractor voluntarily increases the rate to \$4.75 per hour, the allowable price adjustment is \$.40 per hour;
- (2) An increase or decrease wage determination otherwise applied to the contract by operation of law; or
- (3) An amendment to the Fair Labor Standards Act of 1938 that is enacted after award of this contract, affects the minimum wage, and becomes applicable to this contract under law.
- (e) Any adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph (d) of this clause, and the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance, but shall not otherwise include any amount for general and administrative costs, overhead, or profit.
- (f) The Contractor shall notify the Contracting Officer of any increase claimed under this clause within 30 days after receiving a new wage determination unless this notification period is extended in writing by the Contracting Officer. The Contractor shall promptly notify the Contracting Officer of any decrease under this clause, but nothing in the clause shall preclude the Government from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and any relevant supporting data, including payroll records, that the Contracting Officer may reasonably require. Upon agreement of the parties, the contract price or contract unit price labor rates shall be modified in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment in its effective date.

(g) The Contracting Officer or an authorized representative shall have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor until the expiration of 3 years after final payment under the contract.

52.204-7 CENTRAL CONTRACTOR REGISTRATION (JUL 2006)

(a) Definitions. As used in this clause—

Central Contractor Registration (CCR) database means the primary Government repository for Contractor information required for the conduct of business with the Government. Data Universal Numbering System (DUNS) number means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities. Data Universal Numbering System+4 (DUNS+4) number means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same parent concern. Registered in the CCR database means that—

- (1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and
- (2) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record "Active". The Contractor will be required to provide consent for TIN validation to the Government as a part of the CCR registration process.
- (b) (1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.
- (2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS+4" followed by the DUNS or DUNS+4 number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database. (c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.
- (1) An offeror may obtain a DUNS number—
- (i) If located within the United States, by calling Dun and Bradstreet at 1-866-705-5711 or via the Internet at http://www.dnb.com; or
- (ii) If located outside the United States, by contacting the local Dun and Bradstreet office.
- (2) The offeror should be prepared to provide the following information:
- (i) Company legal business.
- (ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.
- (iii) Company Physical Street Address, City, State and Zip Code.
- (iv) Company Mailing Address, City, State and Zip Code (if separate from physical).
- (v) Company Telephone Number.
- (vi) Date the company was started.
- (vii) Number of employees at your location.
- (viii) Chief executive officer/key manager.
- (ix) Line of business (industry).
- (x) Company Headquarters name and address (reporting relationship within your entity).
- (d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.
- (e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.
- (f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.
- (g) (1) (i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of Subpart 42.12 of the FAR; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.
- (ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-

name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

- (2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.
- (h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at http://www.ccr.gov or by calling 1-888-227-2423, or 269-961-5757.

52.216-18 ORDERING (OCT 1995) (DEVIATION II -- FEB 2007)

- (a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from Date of Award through Contract expiration date.
- (b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.
- (c) If mailed, a delivery order or task order is considered "issued" when the ordering activity deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

52.222-26 EQUAL OPPORTUNITY (MAR 2007)

- (a) Definition. "United States," as used in this clause, means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.
- (b) (1) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.
- (2) If the Contractor is a religious corporation, association, educational institution, or society, the requirements of this clause do not apply with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of the Contractor's activities (41 CFR 60-1.5).
- (c) (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.
- (2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to —(i) Employment; (ii) Upgrading; (iii) Demotion; (iv) Transfer; (v) Recruitment or recruitment advertising; (vi) Layoff or termination; (vii) Rates of pay or other forms of compensation; and (viii) Selection for training, including apprenticeship.
- (3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.
- (8) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor

shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

- (9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.
- (10) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.
- (11) The Contractor shall take such action with respect to any subcontract or purchase order as the Contracting Officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States
- (d) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

Added clauses under Refresh #5

52.222-41 SERVICE CONTRACT ACT OF 1965 (NOV 2007)

(a) Definitions. As used in this clause-

Act means the Service Contract Act of 1965 (41 U.S.C. 351, et seq.).

Contractor when this clause is used in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

Service employee means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor.

- (b) Applicability. This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in subpart C of 29 CFR Part 4.
- (c) Compensation. (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or authorized representative, as specified in any wage determination attached to this contract.
- (2) (i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).
- (ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.
- (iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

- (iv) (A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.
- (B) In the case of a contract modification, an exercise of an option or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.
- (C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.
- (v) The wage rate and fringe benefits finally determined under this subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.
- (vi) Upon discovery of failure to comply with subparagraphs (b)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.
- (3) Adjustment of Compensation. If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under the contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.
- (d) Obligation to Furnish Fringe Benefits. The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.
- (e) Minimum Wage. In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.
- (f) Successor Contracts. If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Administrative Review Board, as the case may

- be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract. 53 Comp. Gen. 401 (1973). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.
- (g) Notification to employees. The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.
- (h) Safe and Sanitary Working Conditions. The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of the service employee. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.
- (i) Records. (1) The Contractor and each subcontractor performin g work subject to the Act shall makeand maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:
- (i) For each employee subject to the Act—
- (A) Name and address and social security number;
- (B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;
- (C) Daily and weekly hours worked by each employee; and
- (D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.
- (ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.
- (iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.
- (2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.
- (3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.
- (4) The Contractor will permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.
- (j) Pay Periods. The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semimonthly.
- (k) Withholding of Payments and Termination of Contract. The Contracting Officer shall withhold or cause to be withheld from the Government prime Contractor under this or any other Government contract with the prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may either enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.
- (l) Subcontracts. The Contractor agrees to insert this clause in all subcontracts subject to the Act.
- (m) Collective Bargaining Agreements Applicable to Service Employees. If wages to be paid or fringe benefits to be furnished any service employees employed by the Government prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

- (n) Seniority List. Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent prime Contractor shall furnish to the Contracting Officer a certified list of the names of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.
- (o) Ruling and Interpretations. Rulings and interpretations of the Act are contained in Regulations, 29 CFR Part 4.
- (p) Contractor's Certification. (1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under section 5 of the Act.
- (2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under section 5 of the Act.
- (3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.
- (q) Variations, Tolerances, and Exemptions Involving Employment. Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Pub. L. 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business.
- (1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).
- (2) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).
- (3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.
- (r) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Office of Apprenticeship Training, Employer, and Labor Services (OATELS), U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program. (s) Tips. An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with section 3(m) of the Fair Labor Standards Act and Regulations 29 CFR Part 531. However, the amount of credit shall not exceed \$1.34 per hour beginning January 1, 1981. To use this provision—
- (1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;
- (2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);
- (3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit;
- (4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.
- (t) Disputes Concerning Labor Standards. The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

Updated clauses under Refresh #5

__* (2)

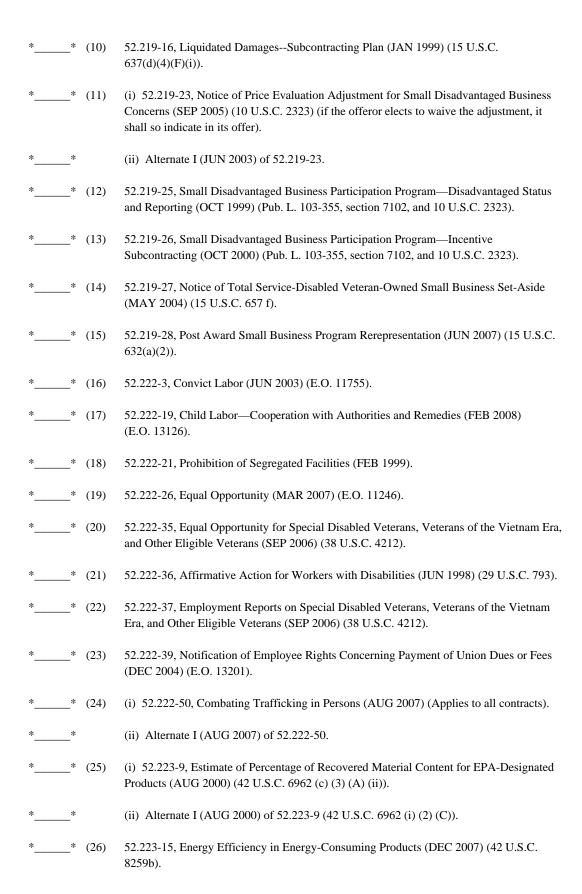
CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES 52.212-5 OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (JUN 2008) 12.301(b)(4) http://www.arnet.gov/far/current/html/Subpart%2012 3.html#wp1084396

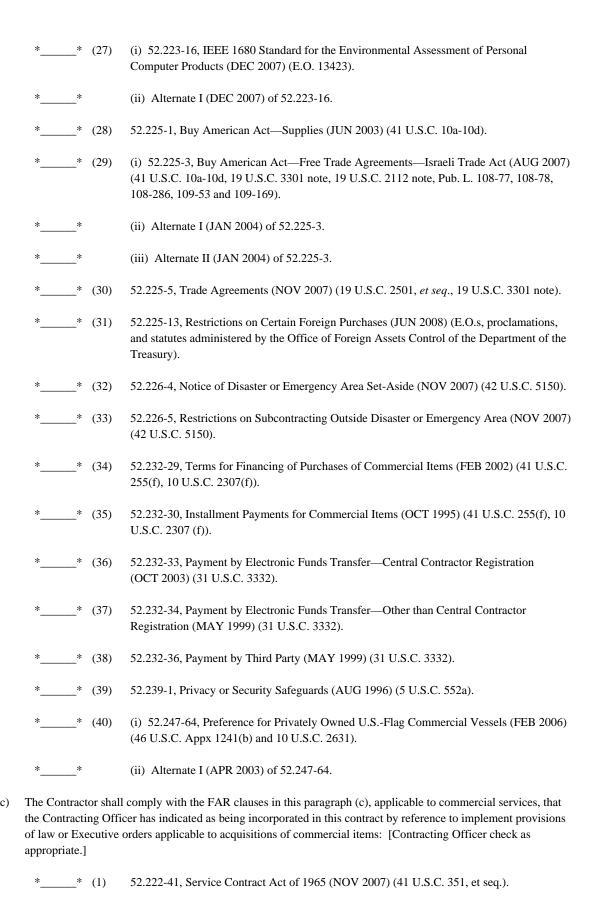
(a)	The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are
	incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to
	acquisitions of commercial items:

- (1) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553). 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78). The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated
- as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items: [Contracting Officer check as appropriate.] __* (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (SEP 2006), with Alternate I (OCT 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).
 - ____* (3) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JUL 2005) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15

52.219-3, Notice of Total HUBZone Set-Aside (JAN 1999) (15 U.S.C. 657a).

- U.S.C. 657a). _* (4) [Reserved]
- __* (5) (i) 52.219-6, Notice of Total Small Business Set-Aside (JUN 2003) (15 U.S.C. 644).
- (ii) Alternate I (OCT 1995) of 52.219-6.
- (iii) Alternate II (MAR 2004) of 52.219-6.
- * (6) (i) 52.219-7, Notice of Partial Small Business Set-Aside (JUN 2003) (15 U.S.C. 644).
- (ii) Alternate I (OCT 1995) of 52.219-7.
- (iii) Alternate II (MAR 2004) of 52.219-7.
- * (7) 52.219-8, Utilization of Small Business Concerns (MAY 2004) (15 U.S.C. 637 (d) (2) and (3)).
- _* (8) (i) 52.219-9, Small Business Subcontracting Plan (NOV 2007) (15 U.S.C. 637 (d)(4)).
- (ii) Alternate I (OCT 2001) of 52.219-9.
- (iii) Alternate II (OCT 2001) of 52.219-9.
- ____* (9) 52.219-14, Limitations on Subcontracting (DEC 1996) (15 U.S.C. 637 (a) (14)).





- * (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (MAY 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.). 52.222-43, Fair Labor Standards Act and Service Contract Act—Price Adjustment __* (3) (Multiple Year and Option Contracts) (NOV 2006) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.). * (4) 52.222-44, Fair Labor Standards Act and Service Contract Act—Price Adjustment (FEB 2002) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.). __* (5) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (NOV 2007) (41 U.S.C. 351, et seq.). __ (6) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (NOV 2007) (41 U.S.C. 351, et seq.). 52.237-11, Accepting and Dispensing of \$1 Coin (AUG 2007) (31 U.S.C. 5112(p) (1)). * (7)
- (d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records—Negotiation.
 - (1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.
 - (2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.
 - (3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.
- (e) (1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in paragraphs (i) through (vi) of this paragraph in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—
 - (i) 52.219-8, Utilization of Small Business Concerns (MAY 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$550,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.
 - (ii) 52.222-26, Equal Opportunity (MAR 2007) (E.O. 11246).

- (iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEP 2006) (38 U.S.C. 4212).
- (iv) 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793).
- (v) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004) (E.O. 13201).
- (vi) 52.222-41, Service Contract Act of 1965 (NOV 2007) (41 U.S.C. 351, et seq.).
- (vii) 52.222-50, Combating Trafficking in Persons (AUG 2007) (22 U.S.C. 7104(g)). Flow down required in accordance with paragraph (f) of FAR clause 52.222-50.
- (viii) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (NOV 2007) (41 U.S.C. 351, et seq.).
- (ix) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (NOV 2007) (41 U.S.C. 351, et seq.).
- (x) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.
- (2) While not required, the contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

52.222-19 Child Labor—Cooperation with Authorities and Remedies (FEB 2008).

As prescribed in <u>22.1505(b)http://www.arnet.gov/far/current/html/Subpart%2022_15.html#wp1088110</u> insert the following clause:

CHILD LABOR—COOPERATION WITH AUTHORITIES AND REMEDIES (FEB 2008)

- (a) *Applicability*. This clause does not apply to the extent that the Contractor is supplying end products mined, produced, or manufactured in—
 - (1) Canada, and the anticipated value of the acquisition is \$25,000 or more;
 - (2) Israel, and the anticipated value of the acquisition is \$50,000 or more;
 - (3) Mexico, and the anticipated value of the acquisition is \$67,826 or more; or
- (4) Aruba, Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or the United Kingdom and the anticipated value of the acquisition is \$194,000 or more.
- (b) Cooperation with Authorities. To enforce the laws prohibiting the manufacture or importation of products mined, produced, or manufactured by forced or indentured child labor, authorized officials may need to conduct investigations to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under this contract. If the solicitation includes the provision 52.222-18 http://www.arnet.gov/far/current/html/52_222.html#wp1147605, Certification Regarding Knowledge of Child Labor for Listed End Products, or the equivalent at 52.212-3(i)

http://www.arnet.gov/far/current/html/52 212 213.html#wp1179194, the Contractor agrees to cooperate fully with authorized officials of the contracting agency, the Department of the Treasury, or the Department of Justice by

providing reasonable access to records, documents, persons, or premises upon reasonable request by the authorized officials.

- (c) Violations. The Government may impose remedies set forth in paragraph (d) for the following violations:
- (1) The Contractor has submitted a false certification regarding knowledge of the use of forced or indentured child labor for listed end products.
- (2) The Contractor has failed to cooperate, if required, in accordance with paragraph (b) of this clause, with an investigation of the use of forced or indentured child labor by an Inspector General, Attorney General, or the Secretary of the Treasury.
 - (3) The Contractor uses forced or indentured child labor in its mining, production, or manufacturing processes.
- (4) The Contractor has furnished under the contract end products or components that have been mined, produced, or manufactured wholly or in part by forced or indentured child labor. (The Government will not pursue remedies at paragraph (d)(2) or paragraph (d)(3) of this clause unless sufficient evidence indicates that the Contractor knew of the violation.)
 - (d) Remedies.
 - (1) The Contracting Officer may terminate the contract.
- (2) The suspending official may suspend the Contractor in accordance with procedures in FAR <u>Subpart 9.4</u> <u>http://www.arnet.gov/far/current/html/Subpart%209_4.html#wp1083280</u>.
- (3) The debarring official may debar the Contractor for a period not to exceed 3 years in accordance with the procedures in FAR Subpart 9.4 http://www.arnet.gov/far/current/html/Subpart%209_4.html#wp1083280.

52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JUN 2007) 19.308(d) http://acquisition.gov/comp/far/current/html/Subpart%2019 3.html#wp1099293

(a) Definitions. As used in this clause--

Long-term contract means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217-8, Option to Extend Services, or other appropriate authority.

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (c) of this clause.

- (b) If the Contractor represented that it was a small business concern prior to award of this contract, the Contractor shall rerepresent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:
 - (1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.
 - (2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.
 - (3) For long-term contracts--
 - (i) Within 60 to 120 days prior to the end of the fifth year of the contract; and
 - (ii) Within 60 to 120 days prior to the exercise date specified in the contract for any option thereafter.

- (c) The Contractor shall rerepresent its size status in accordance with the size standard in effect at the time of this rerepresentation that corresponds to the North American Industry Classification System (NAICS) code assigned to this contract. The small business size standard corresponding to this NAICS code can be found at http://www.sba.gov/services/contractingopportunities/sizestandardstopics/.
- (d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.
- (e) Except as provided in paragraph (g) of this clause, the Contractor shall make the rerepresentation required by paragraph (b) of this clause by validating or updating all its representations in the Online Representations and Certifications Application and its data in the Central Contractor Registration, as necessary, to ensure they reflect current status. The Contractor shall notify the contracting office by e-mail, or otherwise in writing, that the data have been validated or updated, and provide the date of the validation or update.
- (f) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (e) or (g) of this clause.
- (g) If the Contractor does not have representations and certifications in ORCA, or does not have a representation in ORCA for the NAICS code applicable to this contract, the Contractor is required to complete the following rerepresentation and submit it to the contracting office, along with the contract number and the date on which the rerepresentation was completed:

he Contractor represents that it is, _ ssigned to contract number	is not a small business concern under NAICS Code
AUTHORIZED SIGNER'S NAME	AUTHORIZED SIGNER'S TITLE

(Signature)

TRADE AGREEMENTS (NOV 2007) (a)

Definitions. As used in this clause.

(Date)

Designated country means any of the following countries:

52.225-5

- (1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or United Kingdom);
- (2) A Free Trade Agreement country (Australia, Bahrain, Canada, Chile, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Morocco, Nicaragua, or Singapore);
- (3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda,

- Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or
- (4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, or Trinidad and Tobago).

Designated country end product means a WTO GPA country end product, an FTA country end product, a least developed country end product, or a Caribbean Basin country end product.

- (1) Means an article that—
 - (i) (A) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or
 - (B) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed; and
 - (h) Is not excluded from duty-free treatment for Caribbean countries under 19 U.S.C. 2703(b).
 - (A) For this reason, the following articles are not Caribbean Basin country end products:

Tuna, prepared or preserved in any manner in airtight containers;

Petroleum, or any product derived from petroleum;

- Watches and watch parts (including cases, bracelets, and straps) of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the Harmonized Tariff Schedule of the United States (HTSUS) column 2 rates of duty apply (i.e., Afghanistan, Cuba, Laos, North Korea, and Vietnam); and
- Certain of the following: textiles and apparel articles; footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel; or handloomed, handmade, and folklore articles:
- (B) Access to the HTSUS to determine duty-free status of articles of these types is available at http://www.usitc.gov/tata/hts/. In particular, see the following:

General Note 3(c), Products Eligible for Special Tariff treatment.

- General Note 17, Products of Countries Designated as Beneficiary Countries under the United States—Caribbean Basin Trade Partnership Act of 2000.
- Section XXII, Chapter 98, Subchapter II, Articles Exported and Returned, Advanced or Improved Abroad, U.S. Note 7(b).
- Section XXII, Chapter 98, Subchapter XX, Goods Eligible for Special Tariff Benefits under the United States—Caribbean Basin Trade Partnership Act; and
- (2) Refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the acquisition, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

Designated country end product means an article that—

- (1) Is wholly the growth, product, or manufacture of a designated country; or
- (2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services, (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

Free Trade Agreement country end product means an article that—

- (1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or
- (2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an FTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

Least developed country end product means an article that—

- (1) Is wholly the growth, product, or manufacture of a least developed country; or
- (2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

WTO GPA country end product means an article that-

- (1) Is wholly the growth, product, or manufacture of a WTO GPA country; or
- (2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services, (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

End product means those articles, materials, and supplies to be acquired under the contract for public use.

United States means the 50 States, the District of Columbia, and outlying areas.

U.S.-made end product means an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

(b) Delivery of end products. The Contracting Officer has determined that the WTO GPA and FTAs apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The

Contractor shall deliver under this contract only U.S.-made or designated country end products except to the extent that, in its offer, it specified delivery of other end products in the provision entitled "Trade Agreements Certificate."

(c) United States law will apply to resolve any claim of breach of this contract.

52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es): For contract provisions which are contained in the Federal Acquisition Regulation (FAR) the address is http://acquisition.gov/far.

Number Title Clause/Provision

52.214-34 SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE (APR 1991) Provision

52.214-35 SUBMISSION OF OFFERS IN U.S. CURRENCY (APR 1991) Provision

52.216-31 TIME-AND-MATERIALS/LABOR-HOUR PROPOSAL REQUIREMENTS--COMMERCIAL ITEM ACQUISITION (FEB 2007) Provision

52.222-24 PREAWARD ON-SITE EQUAL OPPORTUNITY COMPLIANCE REVIEW (FEB 1999) Provision

52.247-45 F.O.B. ORIGIN AND/OR F.O.B. DESTINATION EVALUATION (APR 1984) Provision

552.219-72 PREPARATION, SUBMISSION, AND NEGOTIATION OF SUBCONTRACTING PLANS (JUN 2005) Provision

552.219-73 GOALS FOR SUBCONTRACTING PLAN (JUN 2005) (ALTERNATE I - JUN 2005) Provision

552.233-70 PROTESTS FILED DIRECTLY WITH THE GENERAL SERVICES ADMINISTRATION (MAR 2000) Provision

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es): For contract clauses which are contained in the Federal Acquisition Regulation (FAR) the address is http://acquisition.gov/far/.

Number Title Clause/Provision

52.202-1 DEFINITIONS (JUL 2004) Clause

52.203-3 GRATUITIES (APR 1984) Clause

52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000) Clause

52.204-7 CENTRAL CONTRACTOR REGISTRATION (JUL 2006) Clause

52.211-16 VARIATION IN QUANTITY (APR 1984) Clause

52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING

DATA--MODIFICATIONS (OCT 1997) (ALTERNATE IV - OCT 1997) Clause

52.216-18 ORDERING (OCT 1995) (DEVIATION II - FEB 2007) Clause

52.216-19 ORDER LIMITATIONS (OCT 1995) Clause

52.216-22 INDEFINITE QUANTITY (OCT 1995) (DEVIATION I - JAN 1994) Clause

52.217-8 OPTION TO EXTEND SERVICES Clause

52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997) Clause

52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (AUG 2003) Clause

52.228-5 INSURANCE--WORK ON A GOVERNMENT INSTALLATION (JAN 1997) Clause

52.229-1 STATE AND LOCAL TAXES (APR 1984) Clause

52.232-17 - INTEREST (JUN 1996) (DEVIATION I - MAY 2003) Clause

52.232-37 MULTIPLE PÄYMENT ÁRRANGEMENTS (MAY 1999) Clause

52.232-7 PAYMENTS UNDER TIME-AND-MATERIALS AND LABOR-HOUR CONTRACTS (FEB 2007) Clause

52.233-1 DISPUTES (JUL 2002) Clause

52.242-13 BANKRUPTCY (JUL 1995) Clause

52.247-32 F.O.B. ORIGIN, FREIGHT PREPAID (FEB 2006) Clause

52.247-34 F.O.B. DESTINATION (NOV 1991) Clause

52.247-38 F.O.B. INLAND CARRIER, POINT OF EXPORTATION (FEB 2006) Clause

52.247-39 F.O.B. INLAND POINT, COUNTRY OF IMPORTATION (APR 1984) Clause

552.203-71 RESTRICTION ON ADVERTISING (SEP 1999) Clause

552.211-73 MARKING (FEB 1996) Clause

552.211-82 NOTICE OF SHIPMENT (FEB 1996) Clause

552.212-70 PREPARATION OF OFFER (MULTIPLE AWARD SCHEDULE) (AUG 1997) Clause

552.215-71 EXAMINIATION OF RECORDS BY GSA (MULTIPLE AWARD SCHEDULE) (JUL 2003) Clause

552.215-72 PRICE ADJUSTMENT—FAILURE TO PROVIDE ACCURATE INFORMATION (AUG 1997) Clause

552.223-70 HAZARDOUS SUBSTANCES (MAY 1989) Clause

552.223-71 NONCONFORMING HAZARDOUS MATERIALS (SEP 1999)Clause

552.229-71 FEDERAL EXCISE TAX--DC GOVERNMENT (SEP 1999) Clause

552.232-74 INVOICE PAYMENTS (SEP 1999) Clause

552.232-77 PAYMENT BY GOVERNMENTWIDE COMMERCIAL PURCHASE CARD (MAR 2000) (ALTERNATE I - MAR 2000) Clause

552.232-78 PAYMENT INFORMATION (JUL 2000) Clause

552.232-79 PAYMENT BY CREDIT CARD (MAY 2003) Clause

552.232-8 DISCOUNTS FOR PROMPT PAYMENT (APR 1989) (DEVIATION FAR 52.232-8) Clause

552.232-83 CONTRACTOR'S BILLING RESPONSIBILITIES (MAY 2003) Clause

552.238-71 SUBMISSION AND DISTRIBUTION OF AUTHORIZED FSS SCHEDULE PRICELISTS (SEP 1999) (DEV I – DEC 2004) (TAILORED JUN 2007) Clause

552.238-72 IDENTIFICATION OF PRODUCTS THAT HAVE ENVIRONMENTAL ATTRIBUTES (SEP 2003) Clause

552.238-73 CANCELLATION (SEP 1999) Clause

552.238-75 PRICE REDUCTIONS (MAY 2004) Clause

552.243-72 MODIFICATIONS (MULTIPLE AWARD SCHEDULE) (JUL 2000) Clause

552.246-73 WARRANTY - MULTIPLE WARD SCHEDULE (MAR 2000) Clause